

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company to Recover the Costs Associated with Renewal of the Diablo Canyon Power Plant Operating Licenses. (U39E)	Application 10-01-022 (Filed January 29, 2010)
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**DECISION ON INTERVENOR COMPENSATION CLAIM OF CALIFORNIANS FOR RENEWABLE ENERGY (CARE)**

<b>Claimant: Californians for Renewable Energy</b>	<b>For contribution to D.12-02-004</b>
<b>Claimed (\$): \$14,578.97</b>	<b>Awarded (\$): \$12,508.00*</b>
<b>Assigned Commissioner: Michel Florio</b>	<b>Assigned ALJ: Robert Barnett</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Decision grants a motion to dismiss the Application for ratepayer financed license renewal funding for the Diablo Canyon nuclear power plant.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	4-14-2010	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	5-14-2010	Correct
4. Was the NOI timely filed?		

\* Rounded to the nearest dollar.

<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.10-01-022	Correct
6. Date of ALJ ruling:	7-13-2010	Correct
7. Based on another CPUC determination (specify):	A.09-04-001	Correct
8. Has the Claimant demonstrated customer or customer-related status?		Yes
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.10-01-022	Correct
10. Date of ALJ ruling:	7-13-2010 (ALJ Ruling Granting, in Part Motion for Reconsideration of the Ruling Rejecting CARE’s NOI)	Correct
11. Based on another CPUC determination (specify):	A.09-04-001 (ALJ Ruling Regarding Notices of Intent to Claim Compensation, dated 7-29-09)	Correct, the ruling was filed in A.09-04-001 on July 29, 2009.
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-02-004	Correct
14. Date of Issuance of Final Order or Decision:	2-7-2012	Correct
15. File date of compensation request:	4-9-2012	Correct
16. Was the request for compensation timely?		Yes

### C. Response to Claimant’s Comments on Part I

#	Claimant	CPUC	Comment
9-12	CARE	Correct. financial hardship has been shown and CARE was approved to	On page 4 of its May 14, 2010, NOI, CARE demonstrated that participation in this proceeding would present a significant financial hardship in the absence of intervenor compensation. It is unclear from the ALJ’s June 10, 2010, Ruling Rejecting CARE’s NOI and from its July 13, 2010, Ruling Granting CARE’s Motion for Reconsideration whether the ALJ determined that CARE provided the required showing of financial hardship. CARE thus hereby supplements its initial, adequate showing of financial hardship by referencing D.11-03-020,

	participate in this proceeding on a limited scope of issues to avoid duplication of efforts.	which also found that CARE's participation in Commission proceedings presents a significant financial hardship. CARE requests the opportunity to present further information on this topic if the Commission determines that the financial hardship prerequisite has not been fulfilled.

## PART II: SUBSTANTIAL CONTRIBUTION

### A. Claimant's Contribution to Final Decision

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
1. Comments on Settlement Agreement	ALJ's Ruling Setting Hearing on the Proposed Settlement and Other Issues (1-28-11): Settlement issues set for hearing.	Correct
2. Motion to Dismiss Application	D.12-02-004 (2-7-2012): Granting CARE's Motion to Dismiss	Correct
3. Response to PG&E's and TURN's Joint Motion to Suspend Proceeding Pending Completion of Seismic Studies	D.12-02-004 (2-7-2012): Denying Join Motion to Suspend	Incorrect. The Commission had already decided to reject the motion of PG&E and TURN to suspend proceedings as a result of the disaster in Japan and because of an earlier response filed by the Alliance for Nuclear

		Responsibility, Sierra Club, CALPIRG and Environment California Research and Policy Center on June 17, 2011.
4. Comments on ALJ Barnett's Proposed Decision Granting Motion to Dismiss PG&E's Application	D.12-02-004 (2-7-2012): Granting CARE's Motion to Dismiss	Correct
5. Reply Comments on ALJ Barnett's Proposed Decision Granting Motion to Dismiss PG&E's Application	D.12-02-004 (2-7-2012): Granting CARE's Motion to Dismiss	In its comments, CARE supported a dismissal but argued that PG&E should be required to file a new application upon completion of the seismic studies rather than filing a motion to re-open the proceeding. The Commission disagreed with CARE's proposal and found that parties would be free to propose discovery and positions regarding the need for updates if PG&E filed a

		motion to re-open the proceeding.
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b>	Yes	<b>Correct</b>
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	<b>Correct</b>
<b>If so, provide name of other parties:</b> Alliance for Nuclear Responsibility (A4NR)		
<b>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b>  CARE circumspectly limited its participation in this proceeding. CARE filed the Motion to Dismiss, which the Commission granted, soon after the Fukushima Daiichi nuclear disaster. The other similar motions filed by the other parties to this proceeding (to dismiss and to suspend) were filed after CARE's initial motion to dismiss. Thus, CARE's motion was a non-duplicative and direct contribution to the outcome of the proceeding.		Correct, in part. CARE was the first to file a Motion to Dismiss but should have further limited its participation by joining with other parties like the Alliance or Nuclear Responsibility in the filings that came afterwards.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>a. Concise explanation by claimant</b>	<b>CPUC Verified</b>
CARE's limited hours resulted in the filing of the motion to dismiss that was granted by the Commission. The low number of hours thus bears a reasonable relationship to the benefits realized.	Correct

<b>b. Reasonableness of Hours Claimed.</b>  CARE spent over 150 hours at the outset of this proceeding researching PG&E's relicensing proceedings and activities, investigating the Nuclear Regulatory Commission's proceedings and its findings regarding the Diablo Canyon Nuclear Power Plant, and discussing collaboration with Mothers for Peace. CARE is not seeking compensation for these initial investigatory hours.	Correct
<b>c. Allocation of Hours by Issue</b>  All but one hour of time claimed by CARE (excluding hours spent on compensation-related activities) is connected to dismissal of PG&E's application. The other hour relates to the Comments of CARE on the Settlement Agreement.	Correct

**B. Specific Claim\*:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephan C. Volker	2010-2012	5.9	\$330	D.12-03-028 <sup>1</sup>	\$1,947	5.1 (2010-2011)	\$330	\$1,683
						.8 (2012)	\$340	\$272
Joshua A.H. Harris	2010 to June 2011	19.3	\$280	D.11-05-016	\$5,404	19.3	\$280	\$5,404
Joshua A.H. Harris	July 2011 to April 2012	6.6	\$325	Attachment 2	\$2,145	6.6	\$310	\$2,046
Michael Boyd	2010-2011	11	\$135	D.09-05-012	\$1,485	11	\$135	\$1,485

<sup>1</sup> CARE continues to dispute the basis of this rate. CARE and Mr. Volker do not herein waive any right to challenge the basis of this assigned rate in future proceedings.

	<b>Subtotal:</b>					\$10,981	<b>Subtotal:</b>		\$10,890
<b>OTHER FEES</b>									
<b>Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):</b>									
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>	
			\$						
	<b>Subtotal:</b>						<b>Subtotal:</b>		
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>									
<b>Item</b>	<b>Year</b>	<b>Hou rs</b>	<b>Rate</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>	
Joshua A.H. Harris	2010 to June 2011	6.9	\$140	D.11.05.016	\$966	3.5	\$140	\$490	
Joshua A.H. Harris	July 2011 to April 2012	10	\$162.5	Attachment 2	\$1,625	5	\$155	\$755	
Stephan C. Volker	2010- 2012	2.5	\$165	D.12-03-028 <sup>2</sup>	\$412.5	1.25	\$170	\$212.50	
Michael Boyd	2010- 2012	4	\$67.5	D.09-05-012	\$270	2	67.5	\$135.00	
	<b>Subtotal:</b>					\$3,273.5	<b>Subtotal:</b>		\$1,592.50
<b>COSTS</b>									
<b>#</b>	<b>Item</b>	<b>Detail</b>			<b>Amount</b>	<b>Amount</b>			
	Costs	See Attachment 5			\$324.47			25.84	
<b>Subtotal:</b>					\$324.47	<b>Subtotal:</b>		<b>25.84</b>	
<b>TOTAL REQUEST \$:</b>					<b>\$14,578.97</b>	<b>TOTAL AWARD \$:</b>		<b>\$12,508.34</b>	
* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees									

<sup>2</sup> CARE continues to dispute the basis of this rate. CARE and Mr. Volker do not herein waive any right to challenge the basis of this assigned rate in future proceedings.

paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

\*\* Reasonable claim preparation and travel time typically compensated at ½ of preparer's normal hourly rates.

### C. CPUC Disallowances, Adjustments, and Comments:

#	Reason
1. Costs	The Commission will disallow compensation for the fees requested for WestLaw research because when the Commission requested proper WestLaw Receipts, CARE declined to provide them, and opted to no longer seek compensation for the fees.
2. Adoption of Joshua A.H. Harris' 2012 hourly rate	CARE seeks an increase in hourly rates for Joshua A.H. Harris's 2011-2012 work here performed after June 2011 because he would move to the 8-12 year rate range of between \$300-\$355 per hour. CARE seeks a new rate of \$325 and hour. We approve a new rate of \$300 an hour for 2012 because of Mr. Harris level of experience.  Additionally, we apply the recent Commission approved Resolution ALJ-281 of September 13, 2012, to Mr. Harris hours during the 2012 calendar year. Resolution ALJ-281 applies a Cost-of-Living Adjustment (COLA) of 2.2% to intervenor rates for work done during the 2012 calendar year. This COLA adjustment, after rounding, results in a new rate for Mr. Harris for 2012 of \$310 per hour.
3. Adoption of Stephan C. Volker's 2012 hourly rate	Though CARE does not seek an increase in the hourly rate for Stephan C. Volker we apply the recent Commission approved Resolution ALJ-281 of September 13, 2012 to Mr. Volker's hours during the 2012 calendar year. Resolution ALJ – 281 applies a Cost-of-Living Adjustment (COLA) of 2.2% to intervenor rates for work done during the 2012 calendar year. This COLA adjustment, after rounding, results in a new rate for Mr. Volker for 2012 of \$340.00



**PART IV: OPPOSITIONS AND COMMENTS**

**Within 30 days after service of this Claim, Commission Staff  
or any other party may file a response to the Claim (*see* § 1804(c))**

**(CPUC completes the remainder of this form)**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?</b>	Yes

<b>Party</b>	<b>Comment</b>	<b>CPUC Disposition</b>

**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to Decision (D.) 12-02-004.
2. The requested hourly rates for Claimant's representatives, as adjusted herein, and claimed fees and costs are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable expenses is \$12,508.00.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. Claimant is awarded \$ 12,508.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric shall pay Claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release

H.15, beginning June 19<sup>th</sup>, 2012, the 75<sup>th</sup> day after the filing of Claimant's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

4. This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX**  
**Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decisions (D.):</b>	D1202004	
<b>Proceeding:</b>	A1001022	
<b>Authors:</b>	ALJ Robert Barnett	
<b>Payers:</b>	Pacific Gas and Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier</b>	<b>Reason Change/Disallowance</b>
Californians for Renewable Energy (CARE)	02/21/12	\$14,578	\$12,508.00	No	Rate for 2012 is increased, for intervenor compensation claim preparation, to reflect cost-of-living adjustment. Res. ALJ-281 (Sept. 18, 2012). Hours for preparation of intervenor compensation claim are reduced for efficiency. WestLaw fees are disallowed because intervenor failed to provide an itemized receipt of fees, instead opting to not seek compensation for WestLaw Fees.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Stephan	Volker	Attorney	Californians for Renewable Energy	—	2012	\$340.00
Joshua A.H.	Harris	Attorney	Californians for Renewable Energy	\$325	2012	\$310.00
Michael	Boyd	Advocate	Californians for Renewable Energy	\$135	2012	\$135.00

**(END OF APPENDIX)**